Chapter 3 (ضرورت کا بیان)

The Fiqh of Necessity

A structural framework for understanding human needs, worship, and the complete code of life.

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The Foundection: Objectives of the Law (مقاصد الشريعة)

Sharī'ah aims to protect human welfare and remove severe hardship. The original rule is strict adherence to the Halal, but the preservation of life supersedes dietary restrictions.

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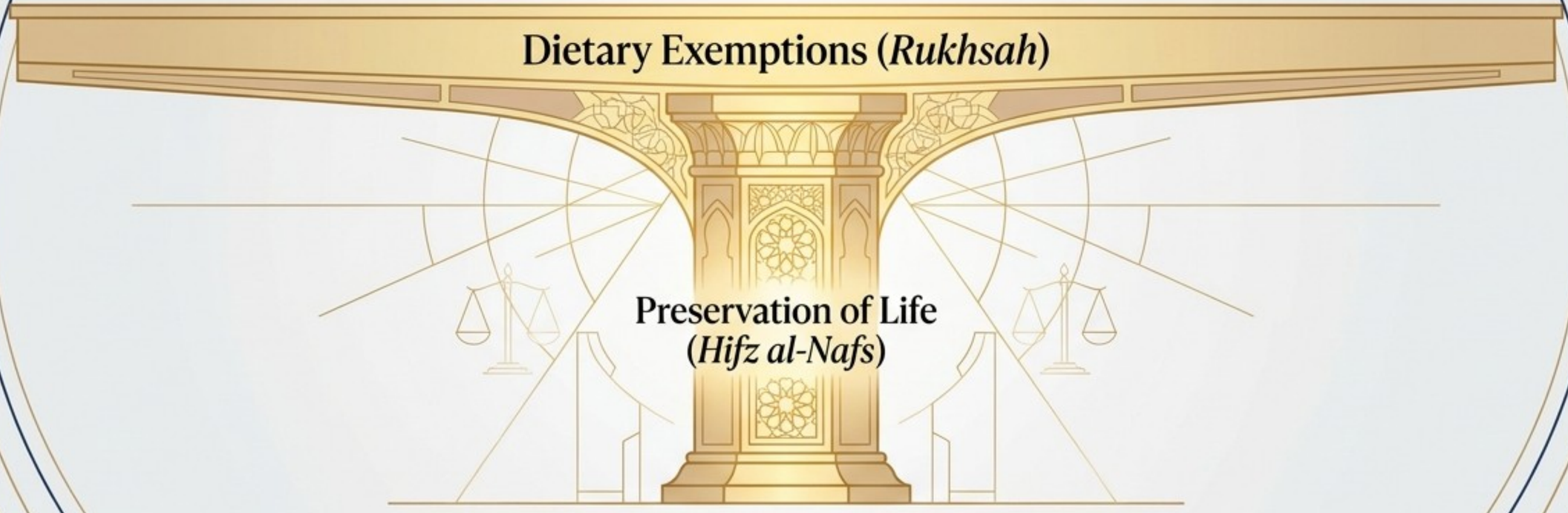
The Foundation of Mercy: Preserving Life Over Law

The Islamic rule of law dictates that the origin of all food is permissibility (Halal) unless explicitly prohibited (Haram). However, when adherence to a prohibition threatens life, the overarching objective (Maqasid) of protecting human life overrides the specific dietary restriction.



"He has only forbidden to you dead animals, blood, the flesh of swine... But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], there is no sin upon him."
(Al-Baqarah 2:173)

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The Principle of Reversion: Elasticity of the Law

The Maxim: “When a matter tightens, it shall widen, and vice versa.”

Compressed

Darurah is an emergency protocol, not a permanent status change.

When extreme hardship increases, the space of permission expands to protect life.

The Reversion

The exact moment the hardship ends (e.g., reaching a town with halal food, or a halal medicine is invented), the exemption instantly vanishes. The ruling snaps back to the Hukm al-Asl (the original verdict of prohibition).

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The Foundational Maxims of Concession (*Rukhsah*)

Plaque 1

الضَّرُورَاتُ تُبِيحُ الْمَحْظُورَاتِ

The Principle of Permissibility:
Necessities render prohibited things permissible.

Plaque 2

الضَّرُورَةُ تُقَدَّرُ بِقَدَرِهَا

The Principle of Proportion:
Necessity is measured by its extent. (Permissibility stops the moment survival is secured).

Plaque 3

الْمَشَقَّةُ تَجْلِبُ التَّيْسِيرَ

The Principle of Ease:
Hardship brings ease. (The divine law adapts to relieve unbearable human suffering).

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The Jurisprudence of Necessity (الاضطرار المبيح للمحظور)

Textual Anchor

فَمَنِ اضْطُرَّ غَيْرَ بَاغٍ وَلَا عَادٍ فَلَآ إِثْمَ عَلَيْهِ ۚ إِنَّ اللَّهَ غَفُورٌ رَّحِيمٌ

“But whoever is forced by necessity, neither desiring [it] nor transgressing [its limit], there is no sin upon him. Indeed, Allah is Forgiving and Merciful.”

(Al-Baqarah 2:173)

The Legal Definition

Ḍarūrah is an extreme state where a legally responsible person faces genuine, imminent death or severe bodily harm from starvation, thirst, or disease, and no halal option exists within realistic reach.

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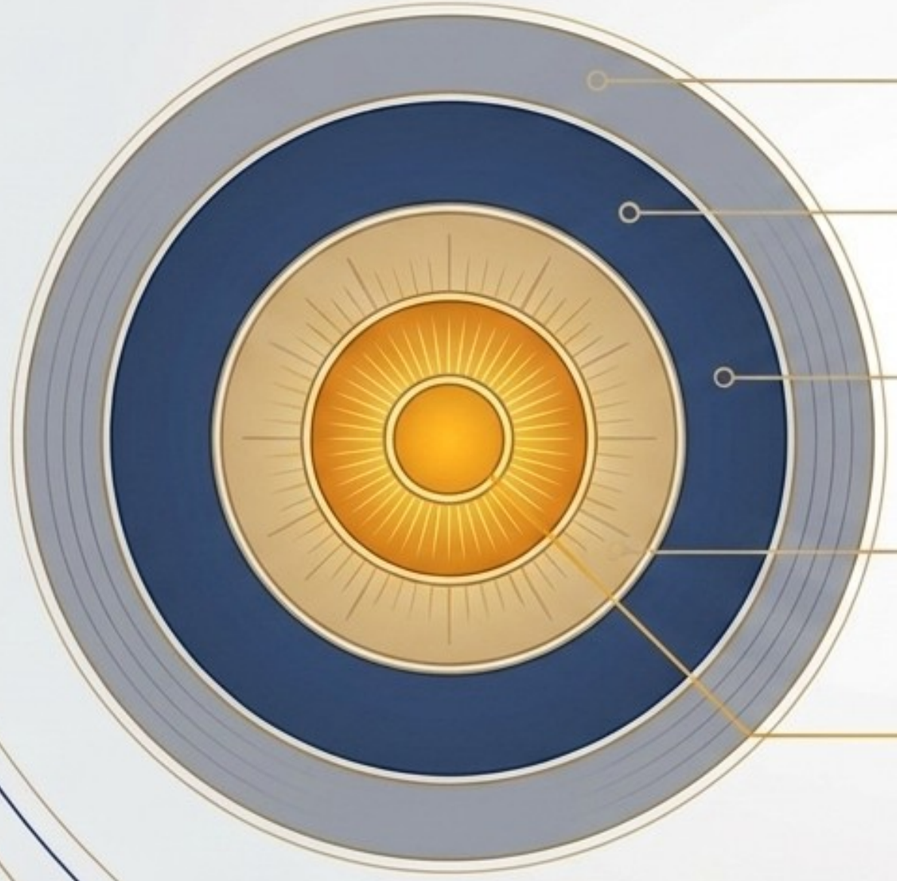
The Hierarchy of Human Need in Islamic Law

The legal concessions of Darurah are triggered ONLY at the absolute core (*Idtirar*), not at the level of mere hardship or inconvenience.



فُضُول (*Fudul* - **Waste/Excess**)

زِينَة (*Zinah* - **Decoration**) - Purely for aesthetic or lifestyle enhancement.

مَنْفَعَة (*Manfa'ah* - **Benefit**) - Desired for improvement but not strictly required.

حَاجَةٌ (*Hajah* - **Need**) - Severe hardship, but no immediate fear of death or loss of limb.

اضْطِرَار (**Idtirar - Impulsion/Necessity**) - Severe compulsion where life or limb is at risk of perishing.

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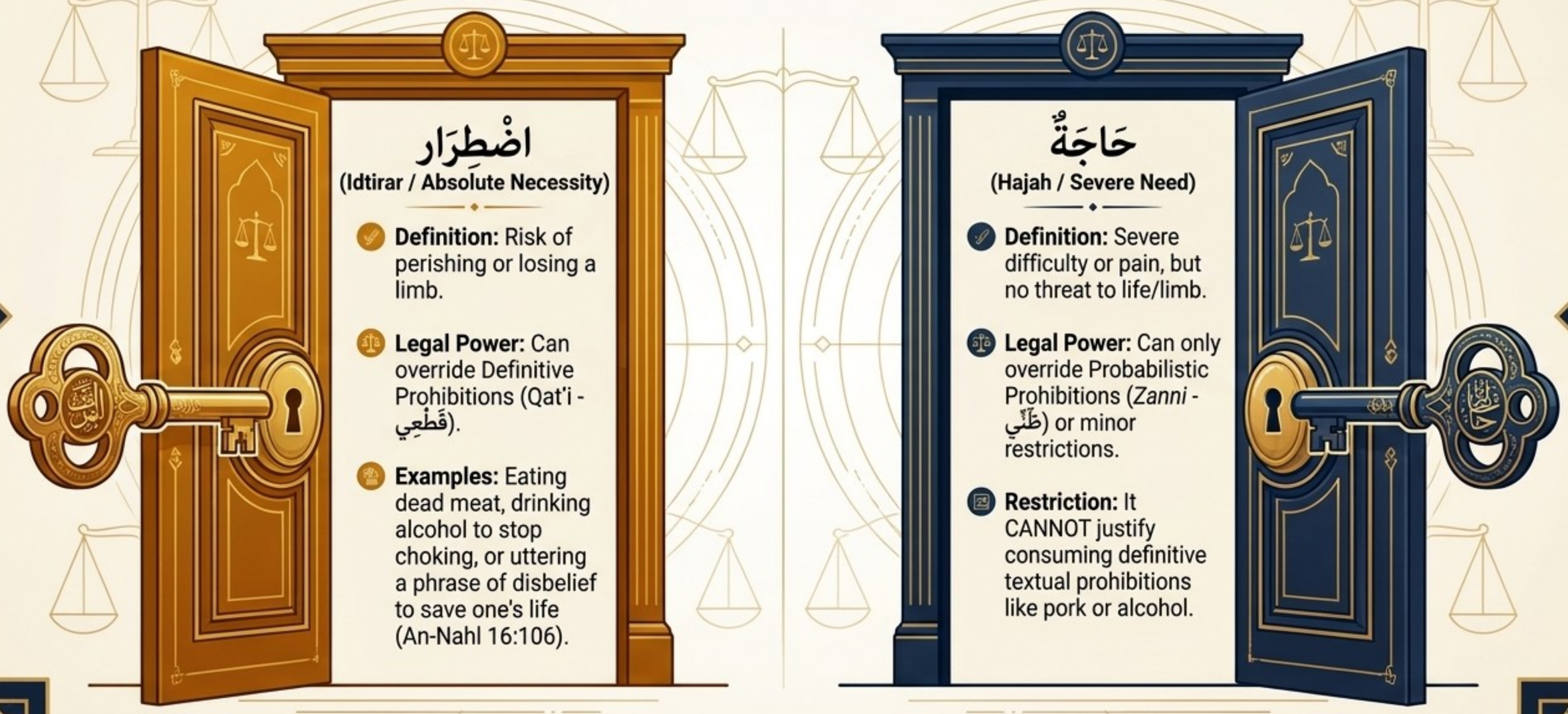
The Legal Threshold: Idtirar vs. Hajah



اضْطِرَار
(Idtirar / Absolute Necessity)

- **Definition:** Risk of perishing or losing a limb.
- **Legal Power:** Can override Definitive Prohibitions (Qat'i - قَطْعِي).
- **Examples:** Eating dead meat, drinking alcohol to stop choking, or uttering a phrase of disbelief to save one's life (An-Nahl 16:106).

حَاجَةٌ
(Hajah / Severe Need)

- **Definition:** Severe difficulty or pain, but no threat to life/limb.
- **Legal Power:** Can only override Probabilistic Prohibitions (*Zanni* - ظَنِّي) or minor restrictions.
- **Restriction:** It CANNOT justify consuming definitive textual prohibitions like pork or alcohol.

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Diagnostic Matrix: Ḍarūrah vs. Ḥājah

Feature	Ḍarūrah (Necessity)	Ḥājah (Need)
Threat Level	Imminent loss of life, limb, or intellect.	Severe hardship, pain, or disruption of normal function
Legal Consequence	Permits the expressly forbidden (e.g., eating carrion).	Relaxes operational strictures and grants concessions (Rukhsah).
Condition for Expiry	Ends the exact moment the threat is neutralized.	Persists as long as the underlying difficulty remains.
Classical Example	Eating pork or dead meat to survive starvation.	Breaking the fast while traveling; certain medical treatments.

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Triggers of Concession: Defining the Emergency

Starvation in Isolation

Lost in a desert or wilderness with zero food options, facing imminent death by starvation.

Asphyxiation / Choking

A piece of halal food is lodged in the throat. The only available liquid to wash it down and prevent death is an intoxicant. Allowed strictly to clear the airway.

Coercion & Imprisonment

Indefinite incarceration where only haram food is provided, or being physically forced under threat of death to consume the impermissible.

Extreme Medical Peril

A life-threatening illness where the ONLY known cure contains a prohibited substance, and the efficacy of this cure is absolute (not speculative).

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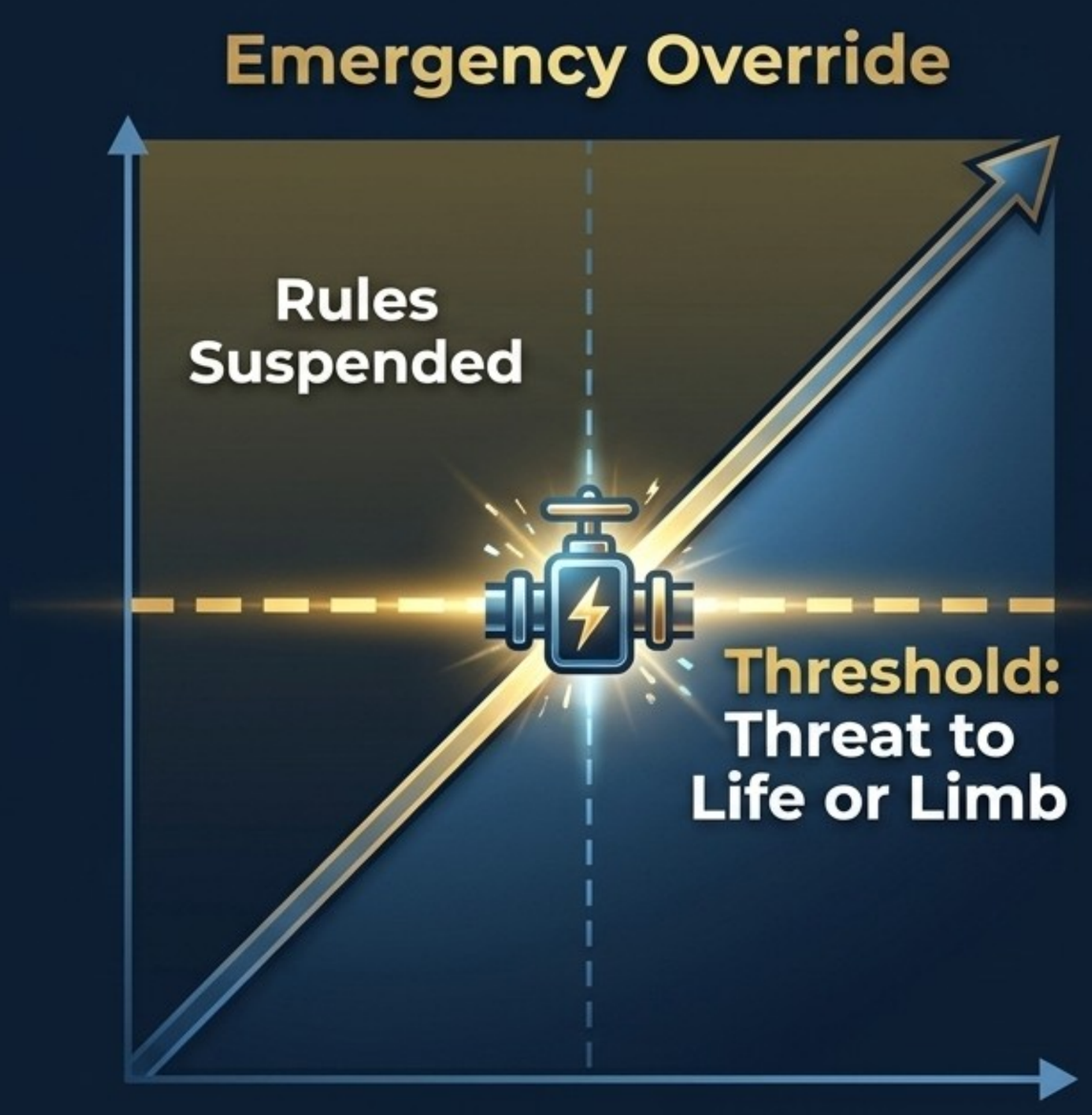

The Emergency Override: Idtirar

Definition: A state of severe helplessness where there is a conclusive, distinct threat to life or the loss of an organ.

الضرورات تبيح المحظورات

(Necessities dictate exceptions)

لا ضرر ولا ضرار

(No harm, no foul)

Takeaway: When survival is at stake, the preservation of life supersedes standard prohibitions.

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The Strict Boundaries of Necessity

غير باغٍ
(Ghayr Bāghin) - **No Desire**
The consumption must not be driven by lust, appetite, or a desire to consume the haram. It is purely functional.
Permissible Exception
ولا عادٍ
(Wa-lā `Ādin) - **No Excess**
Consumption must stop the exact moment the threat is neutralized (e.g., eating just enough to survive, not to satiation).

Classical Precedent: The Choking Precedent (الغاص بلقمته)

If a person is choking to death on a morsel of food and the only available liquid to dislodge it is wine, Shariah mandates taking the exact sip necessary to save the life—and not a drop more.

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The Necessity Equation

(Imminent Threat to Life/Limb) + (Absolute Absence of Halal Alternatives) = (Temporary Permissibility) − (Desire & Transgression)

The Quran strictly bounds this equation with the phrase *Ghayra baghin wa la ‘adin* (غَيْرَ بَاغٍ وَلَا عَادٍ) — “Neither desiring it, nor transgressing its limit.” Consume only the absolute minimum required to survive.

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The Obligation to Survive: A Scholarly Consensus

The Dilemma: If a Muslim is starving to death, finds a dead animal (carrion), but refuses to eat it out of a desire to remain pure, and subsequently dies—are they a martyr or a sinner?

The Assumption

Refusing the haram food until death is an act of extreme piety and martyrdom.

The Scholarly Verdict

(Ahmad b. Hanbal & Shafi'i scholars)

It is a Religious Obligation (*Wajib* - واجِب) to consume the prohibited meat to save one's life.

Rationale: Having a hand in one's own destruction is strictly prohibited. The sanctity of of a living human life is greater than the impurity of the dead animal.

Conclusion: If a person insists on refusing the prohibited food until they die, they die as a sinner and invoke punishment upon themselves.

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The Impact of Disobedience on Concessions

Context: A person is traveling specifically to commit a major sin (e.g., highway robbery). They become stranded and are starving. Can they invoke the **necessity exemption?**

Maliki & Shafi'i View: NO.

The concession (Rukhsah) is voided.

Logic: The Quran specifies **"Neither rebellious nor transgressing".** Mercy is not granted to facilitate a sin. **They must repent first to activate the permission.**

Other Jurists (General Rule View): YES.

The concession remains active.

Logic: The preservation of life is an absolute mandate independent of immediate moral failings. The sin of the journey is separate from the obligation to prevent starvation.

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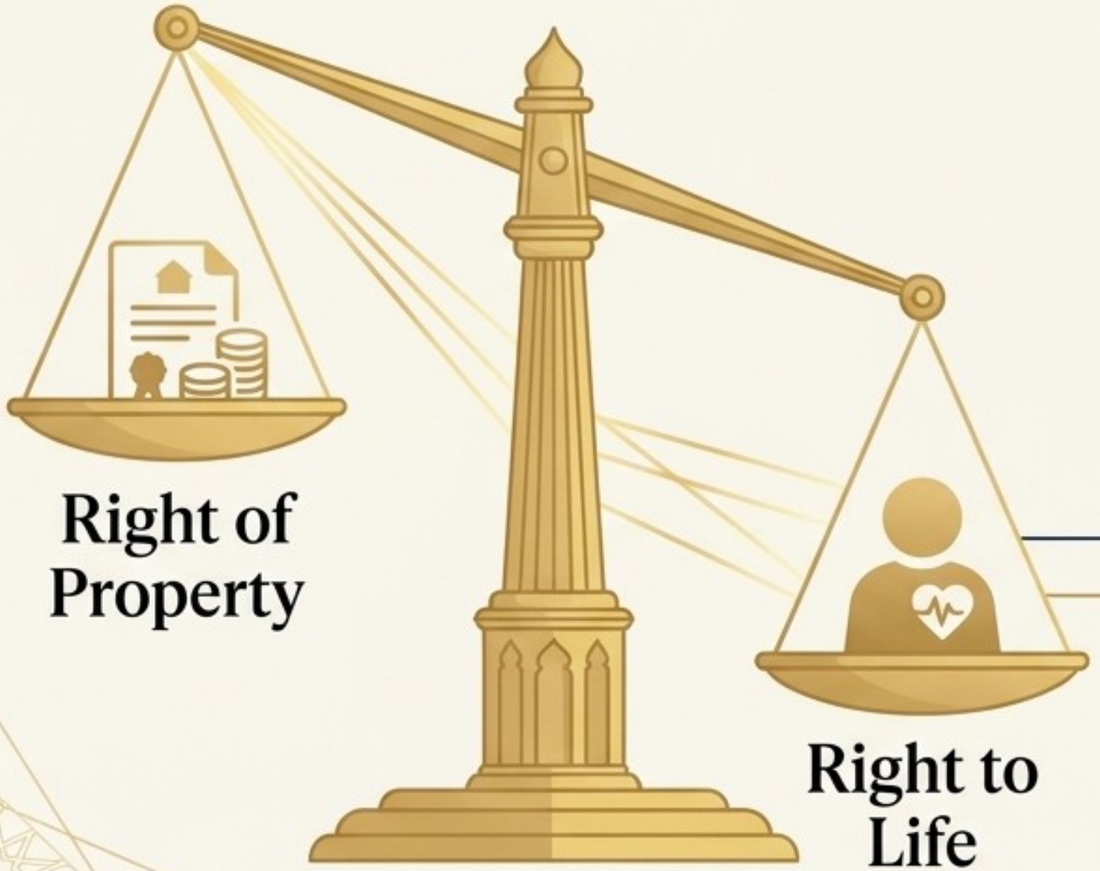
Social Necessity: The Property of Others

Core Rule: A starving person may consume the lawful food of another to save their life, provided the owner is not facing the exact same life-threatening compulsion.



The Compensation Rule

If the starving person has means, they must compensate the owner for the price of the food.

The Nuance of Poverty (Ibn Taymiyyah's Ruling)

If the starving person is poor, they do NOT have to pay compensation.

Why? Feeding the hungry is a communal obligation (**Fard Kifayah**). When only one person is available to save the starving individual, it becomes an individual duty (**Fard Ayn**). You cannot charge someone for fulfilling your own religious duty to save their life.

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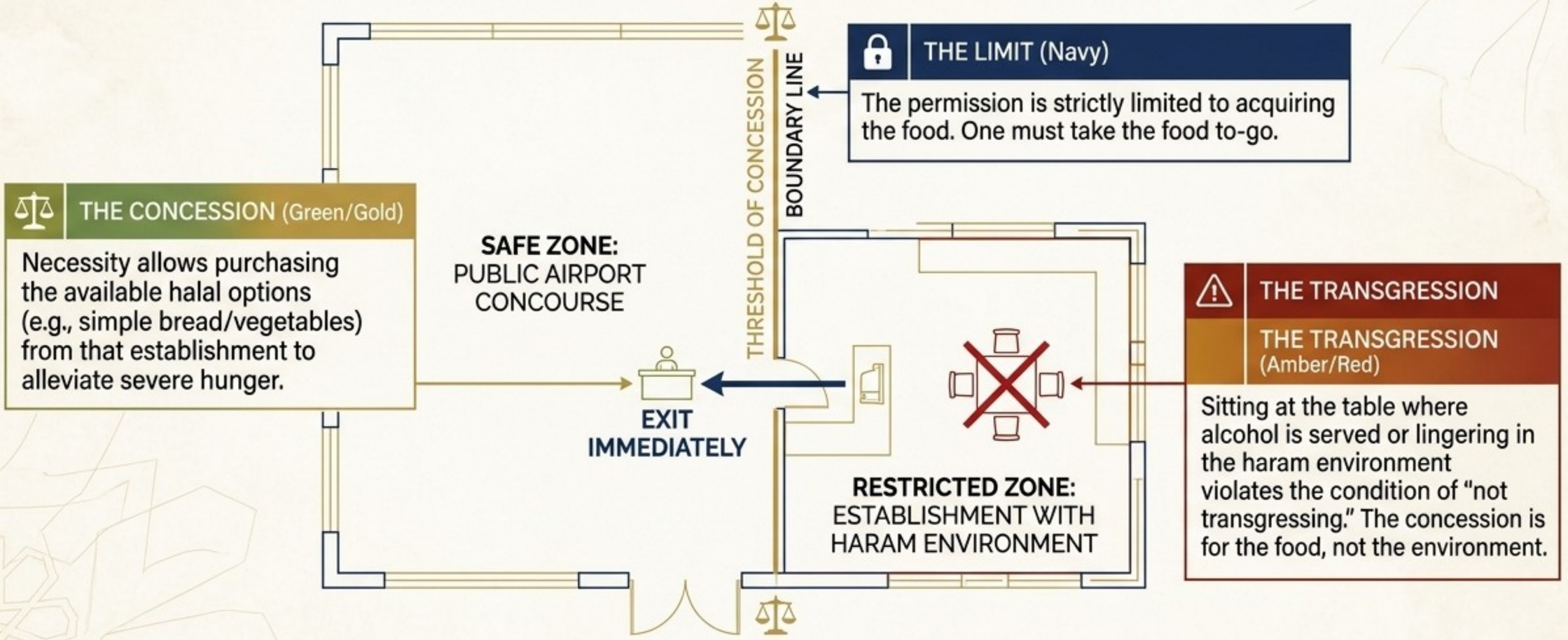
Contemporary Applications: The Modern Food Landscape

The Scenario: A starving Muslim traveler in an airport where the only available food is inside an establishment serving alcohol or non-halal meat.


THE CONCESSION (Green/Gold)
Necessity allows purchasing the available halal options (e.g., simple bread/vegetables) from that establishment to alleviate severe hunger.
SAFE ZONE:
PUBLIC AIRPORT CONCOURSE
THRESHOLD OF CONCESSION
BOUNDARY LINE
THE LIMIT (Navy)
The permission is strictly limited to acquiring the food. One must take the food to-go.
EXIT IMMEDIATELY
RESTRICTED ZONE:
ESTABLISHMENT WITH HARAM ENVIRONMENT
THE TRANSGRESSION
THE TRANSGRESSION (Amber/Red)
Sitting at the table where alcohol is served or lingering in the haram environment violates the condition of "not transgressing." The concession is for the food, not the environment.

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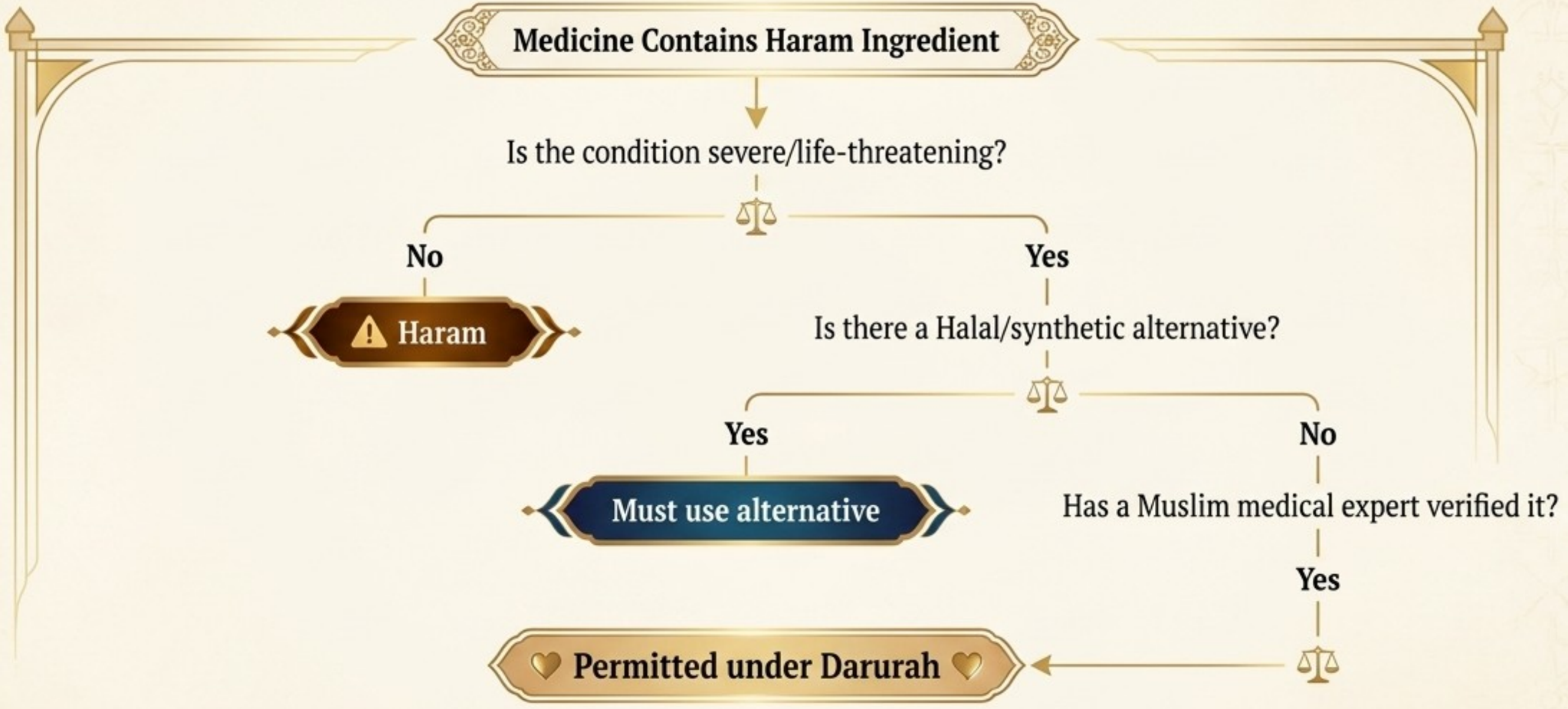
Contemporary Applications: Medicine & Pharmaceuticals

The Dilemma: Many modern medicines use pork-derived gelatin or alcohol solvents.



Note on Negligible Amounts

Micro-ingredients or incidental alcohol from natural fruit fermentation that do not intoxicate often fall under separate principles of transformation (Istihalah) or public affliction (Umum al-Balwa), distinct from the extreme life-or-death rules of Darurah.

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Contemporary Medical Case Studies

Heparin (LMWH)

Issue: Life-saving blood thinner extracted from porcine intestinal mucosa.

Application: Imminent threat of blood clots qualifies as Ḍarūrah. Permissible until a viable synthetic/bovine alternative matches its precise clinical efficacy.

Pharmaceutical Capsules

Issue: Hard and soft drug capsules often utilize porcine-derived gelatin for structural stability.

Application: If a critical medication is only available in this format, Ḥājah/Ḍarūrah applies. However, the industry is heavily mandated to transition to plant/algae alternatives.

Vaccine Adjuvants

Issue: Porcine elements sometimes used in R&D or as stabilizers in critical public health vaccines.

Application: Protected under Ḥājah ʿĀmmah (General Need) to prevent public health catastrophes, adhering to the principle that collective need elevates to necessity.

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